

902 KAR 10:050. Refuse bins.

RELATES TO: KRS 211.025, 211.090, 211.180, 16 C.F.R. Part 1301

STATUTORY AUTHORITY: KRS Chapter 13B, 194.050, 211.090, EO 96-862

NECESSITY, FUNCTION, AND CONFORMITY: KRS 211.090 and 211.180 authorize the Cabinet for Health Services to adopt administrative regulations relating to all matters of public health for the prevention and control of health hazards. The purpose of this administrative regulation is to establish a standard for certain refuse bins, to prescribe testing conditions and procedures for refuse bins and to set forth procedures for structurally modifying unstable bins or those not complying with the standard. Because unstable refuse bins are a potential hazard to the health and well being of children and because the average life of a refuse bin is estimated to be from ten (10) to fifteen (15) years, standards are required to minimize the risk from injury of the product. Executive Order 96-862, effective July 2, 1996, reorganizes the Cabinet for Human Resources and places the Department for Public Health and its programs under the Cabinet for Health Services.

Section 1. Definitions. (1) "Refuse bin" means a metal receptacle having an internal volume one (1) cubic yard or greater, by actual measurement, which temporarily receives and holds refuse for ultimate disposal either by unloading into the body or loading hopper of a refuse collection vehicle or by other means.

(2) "Internal volume" means the actual volumetric capacity of the container. This shall not be required to correspond to the nominal size rating used by industry.

(3) "Tip over" means that a refuse bin begins to rotate forward about its forwardmost ground supports during the application of either test force described in Section 3 of this administrative regulation.

(4) "Unstable refuse bin" means a bin which has an actual internal volume of one (1) cubic yard or greater that may tip over if an external vertically downward force is applied to the bin in a position which most adversely affects stability.

(5) "Distributed in commerce" means to:

- (a) Sell;
 - (b) Introduce or deliver for sale; or
 - (c) Hold or offer for sale or distribution.
- (6) "Cabinet" means the Cabinet for Health Services.

(7) "Risk of injury" means a risk of death, personal injury, or serious or frequent illness.

(8) "Retrofitting" means the structural modification of a bin to make it stable.

Section 2. Test Conditions. A refuse bin distributed in commerce shall be subject to the required tests under the following conditions.

(1) The refuse bin shall be empty and have its lids or covers in a position which would most adversely affect the stability of the bin.

(2) The refuse bin shall be tested on a hard, flat surface. During testing, the bin shall not be tilted from level to increase its stability.

(3) Those refuse bins equipped with casters or wheels shall have the casters or wheels positioned in a position which would most adversely affect the stability of the bin and shall be chocked to prevent movement.

(4) The stability of the refuse bin shall be tested without dependence upon nonpermanent attachments or restraints.

(5) For purposes of enforcement, bins shall be tested by the cabinet in that position which most adversely affects their stability.

Section 3. Test Procedures. The following procedures shall apply to the testing of a refuse bin:

(1) The refuse bin shall be tested by applying forces as described below and in the order indicated:

(a) A horizontal force of seventy (70) pounds shall be applied to a point and in a direction most likely to cause tipping; and

(b) A vertically downward force of 191 pounds shall be applied to a point most likely to cause tipping.

(2) These forces shall be applied separately and the bin shall not tip over under the application of either action cited above.

Section 4. Modification of Unstable Bins. Bins that do not meet the requirements of the test procedures may be structurally retrofitted to comply with the provisions of this administrative regulation. Retrofitting may be accomplished in several ways including:

(1) Metallic extensions may be welded to the front of the sloping side, and the wheels may be moved forward on the extensions; or

(2) A permanent counter weight may be placed on the back of the bin. Retrofitting to stabilize refuse bins shall be of durable construction so as to last the useful life of the bin.

Section 5. Issuance and Service of Notice of Violations. (1) If test procedures described in Section 3 of this administrative regulation establish that the bin does not comply with the standards prescribed by this administrative regulation, the cabinet shall notify the owner in writing. The notification shall:

(a) Set forth the specific violations found;

(b) Establish a specific and reasonable period of time for the correction of the violations;

(c) State that an opportunity for appeal from a notice of inspectional findings shall be provided if a written request for a hearing is filed with the cabinet within the period of time established in the notice for correction; and

(d) All administrative hearings shall be conducted in accordance with 902 KAR 1:400.

(2)(a) Notices provided for under this administrative regulation shall be deemed to have been properly served if the written notification of findings has been:

1. Delivered personally to the owner of the bin or person in charge of the bin; or

2. Sent by registered or certified mail, return receipt requested, to the last known address of the owner or person in charge.

(b) A copy of the notice shall be filed with the records of the cabinet.

Section 6. Hearings. (1) All administrative hearings shall be conducted in accordance with 902 KAR 1:400.

(2) A hearing shall be conducted if:

(a) Nonconforming bins are not brought into compliance with the applicable standards within the prescribed period of time; or

(b) An appeal from the findings of violations is requested by the owner or person in charge. (6 Ky.R. 244; eff. 12-5-79; Am. 20 Ky.R. 2177; 2636; eff. 3-14-94; 22 Ky.R. 2376; eff. 8-1-96.)